

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TROY ANTHONY HESS,

Petitioner,

vs.

HAROLD W. CLARKE,

Respondent.

)
)
)
)
)
)
)
)
)
)
)

4:03CV3318

MEMORANDUM AND ORDER

Counsel for the respondent has failed to comply with four (4) successive orders by this court (filing nos. 20, 26, 34 and 38) directing her to file a brief addressing the *merits* of the petitioner's habeas corpus claims. Instead, the respondent's attorney insists upon briefing *only* the timeliness of the petitioner's Petition for Writ of Habeas Corpus, *despite* the fact that I ruled against the respondent on this question on February 2, 2004 (filing no. 12).¹

I do not want to get into a dispute with respondent's counsel. I do not want to call the Nebraska Attorney General and complain. I do not want to stop counsel from practicing in federal court. I do not want to call the Nebraska Counsel on Discipline and ask for his help. I do not want to make this into a big deal.

I simply want to know what the respondent thinks about the *merits* of the petitioner's claims. So, I am going to try again, one last time, to get respondent's lawyer to brief that question.

Therefore,

¹Maybe I was wrong. I make mistakes all the time. That said, life goes on, and good lawyers swallow their disgust about the judge's stupidity and address the issues the dummy wants addressed.

IT IS ORDERED that:

1. The respondent shall have until June 5, 2006, to submit a brief on the *merits* of the petitioner's claims. Without rearguing the issue of timeliness, the brief shall reflect a good faith effort to respond to the merits of the petitioner's habeas claims. Failure to comply with this order could cause me to become very unpleasant. I really mean it.
2. Petitioner shall have until June 19, 2006, to submit a reply brief to the merits brief submitted by respondent's counsel. After that, this matter will be submitted for decision.

May 18, 2006.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge